उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(19)

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

MISC. APPEAL (C) NO.1056/2007

APPELLANTS CLAIMANTS	1.	Atma Singh, S/o Dharma Singh, aged about 50 years,
	2.	Smt. Gurmeet Kaur, W/o Atma Singh, aged about 48 years.
		Both the Appellants R/o House No.1, Deepak Nagar, P.S. Mohan Nagar, Durg, District Durg (C.G)

Versus

RESPONDENTS (NON-APPLICANTS)	1.	Balwant Singh, S/o A. Singh, aged about 27 years, by occupation-a driver, R/o Central Cargo Movers, Transport Nagar, Hathkhoj, Bhilai, District Durg (C.G.)
	2.	Rajesh Shrivastava, S/o Vashishtha Narayan, R/o Central Cargo Movers, Transport Nagar, Hathkhoj, Bhilai, District Durg (C.G.)
	3.	The New India Assurance Company Limited, Through its Branch Manager, Branch Office M.L. Building, Sakchi, Jamshedpur –I, (Jharkhand), local address- Branch Office, near G.E. Road, Power House, Bhilai, District Durg (C.G.)

GRPRJ — FS/246— 2/2007 — 50,000.

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मामला क्रमांक MAC 1056/07 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Misc. Appeal under Section 173 of the Motor Vehicles Act, 1988

Appearance:

Shri Manoj Jaiswal, counsel for the appellants.

D.B-: HON'BLE SHRI L.C. BHADOO, J, &
HON'BLE SHRI SUNIL KUMAR SINHA,J.

ORAL ORDER
(25.09.2007)

L.C.Bhadoo, J.

Heard.

The claimants have preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 for enhancement of the compensation amount, being aggrieved by the award dated 26/3/2007 passed by the First Additional Motor Accidents Claims Tribunal, Durg in Claim Case No.132/2004, whereby, the learned Tribunal after assessing the loss of dependency as Rs.24,000/- per year and by applying a multiplier of 13 worked out total loss of dependency as Rs.3,12,000/-. Apart from this, the Tribunal has also awarded Rs.2000/- under the head of funeral expenses, Rs. 2500/- for loss of estate, and Rs. 10,000/- on account of future expectancy of life. Thus, a total sum of Rs.3,26,500/- has been awarded in all. In addition to this,

शासकीय क्षेत्रीय मुद्रणा

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

6% interest p.a. has also been granted from the date of filing of the application and in case the amount is not paid within 2 months from the date of the award, then, the claimants shall be entitled for 9% interest p.a.

There is a delay of 73 days in filing this appeal.

We have heard learned counsel for the appellants on merits as well as condonation of delay.

The deceased was working as a truck driver at the time of the accident. The mother of the deceased has stated that his son was earning Rs.4500/- per month. Even the witness No.1 -owner of the truck has stated that he was paying Rs.4500/- per month but no documentary proof was filed by him to show that he was paying Rs.4500/- per month. Therefore, the Tribunal came to the conclusion that normally, a driver gets, Rs.100/- per day, assessed the income of the deceased as Rs.3000/- per month and after deducting 1/3 personal expenses, loss of dependency was assessed as Rs.24,000/- per annum.

After hearing learned counsel for the appellants and considering the award, we are of the considered opinion that the income assessed by the Tribunal is just and reasonable and is not in any manner on the lower side.

The accident took place in the year 2002. Normally, at that time, the driver used to get Rs.100/- per day. No evidence was adduced that on account of special circumstance, the owner was paying Rs.4500/- p.m. and

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 4	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

no documentary proof was also filed, therefore to this extent, we do not find any illegality or infirmity in the award of the Tribunal and multiplier of 13 has been correctly applied.

At the time of death of the deceased, age of the claimant/father was 50 years and age of the claimant/mother was 48 years and as per schedule –II appended to the Motor Vehicles Act, the correct multiplier has been applied because in case of persons aged between 45 and 50 years, a multiplier of 13 has to be applied.

For the foregoing reasons, we do not find any illegality or infirmity in the award and the compensation amount awarded is just and reasonable, which does not require interference by this Court.

There is no merit in this appeal and it is dismissed on limitation as well as on merits.

Sd/-
L.C. Bhadoo
Judge

Sd/-
Sunil Kumar Sinha
Judge